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TAGS: ELAB ETRD ECON PHUM PREL

SUBJECT: PHILIPPINES GSP PETITION: REQUEST FOR INTERIM DEMARCHE

SENSITIVE BUT UNCLASSIFIED; PLEASE PROTECT ACCORDINGLY.

¶1. (U) This is an action request; please see para 7.

¶2. (SBU) SUMMARY AND ACTION REQUEST: The USG is presently reviewing a 2007 Generalized System of Preferences (GSP) petition from the International Labor Rights Forum (ILRF), which alleged the Philippines fails to comply with GSP eligibility criteria related to worker rights. As part of the USG's review of this petition, Post is requested to meet with appropriate GRP officials to call attention to the GSP petition and offer suggested interim steps that the GRP could take to address the allegations in the petition. END SUMMARY AND ACTION REQUEST.

BACKGROUND

¶3. (U) The GSP program is designed to promote economic growth in the developing world, and provides preferential duty-free entry for more than 4,650 products from 143 designated beneficiary countries and territories. The GSP program was instituted on January 1, 1976, after being authorized under the Trade Act of 1974 for a 10-year period. It has been renewed periodically since then, most recently in 2006, when President Bush signed legislation that reauthorized the GSP program through the end of 2008. In 2006, the Philippines exported over USD 1.1 billion in products duty-free to the U.S. under the GSP program. For the first eleven months of 2007, the Philippines exported slightly less than USD 1.1 billion under GSP, and was on track to record a 3.9 percent increase in GSP exports over 2006.

¶4. (U) The interagency GSP subcommittee of the Trade Policy Staff Committee (TPSC) reviews all accepted GSP petitions and submits its recommendations to the TPSC policy-level officials for decision. The GSP subcommittee is chaired by USTR and is comprised of representatives from State, Treasury, Commerce, Labor, Agriculture and the U.S. International Trade Commission (non-voting). At the conclusion of a petition's review, the subcommittee may recommend that the review be closed and a country's benefits be terminated, limited or suspended, or remain unchanged. One of the aims of the petition review process is to encourage action by the host government to address the issues identified in the petition with respect to the GSP eligibility criteria. In this regard, therefore, the review process is not intended to move directly to punitive action, such as suspension of GSP benefits. Rather, the GSP subcommittee makes every effort through engagement, such as demarche requests, to resolve issues in a positive way. However, host governments should understand that under the GSP statute, failure to address issues of concern can lead to a loss of GSP benefits.

¶5. (U) In June 2007, the International Labor Rights Forum (ILRF) petitioned the USG for suspension of the Philippines'

benefits under GSP, alleging the Philippines failed to take steps to accord workers internationally recognized labor rights as required by the eligibility criteria for GSP benefits. The petitioner alleged that the GRP had "taken significant steps and engaged policies that deny its workers the right of freedom of association...", and also alleged that the GRP had "taken steps to undermine the ability of workers to form and join unions." The ILRF also raised the issue of extra-judicial killings and abductions of union leaders. Under the statutory GSP eligibility criteria, the President shall not designate a country as a GSP beneficiary if the country: 1) "(H)as not taken or is not taking steps to afford internationally recognized worker rights to workers in the country...." OR 2) "(H)as not implemented its commitments to eliminate the worst forms of child labor."

¶16. (SBU) Following solicitation of public comment on the ILRF petition and a public hearing in the fall of 2007, the GSP subcommittee commenced deliberation of the petition.

Agencies noted the serious allegations in the petition and credible evidence to support the allegations. However, based on reports from Post, and information from a recent Department of State visit, it appears there has been recent progress in some areas. For example, the Center for Trade Union and Human Rights, the same Center cited by petitioner in its brief, reports three cases of slain labor leaders in 2007, down from 33 in 2006. Washington agencies recognize such facts and look forward to additional improvements by the GRP on this issue. Washington agencies also commend Post for its broad engagement on issues connected to the petition, including the issue of EJKs.

Action Request

¶17. (SBU) The GSP subcommittee review of the ILRF petition is continuing in Washington, and will provide recommendations by June 30 on next steps. The GSP subcommittee would welcome steps from the GRP toward resolving the issues identified in the ILRF petition, which would be weighed heavily in its subsequent recommendations. Post is requested to meet with appropriate GRP officials to call attention to the need for GRP steps to resolve the issues related to GSP eligibility alleged in the petition, and to underscore the USG review of the petition. Post should draw upon the following suggested steps that the GRP could take to move toward resolution of the issues identified in the ILRF petitions:

Suggested Steps

Extrajudicial Killings:

-- While recognizing and commending the dramatic decline in the number of extrajudicial killings, particularly of labor leaders, reported in 2007, we recommend the mandate of Task Force USIG should be expanded to include the investigation of killings, abductions, and disappearances of trade union leaders. Task Force USIG should recommend the prosecution of any perpetrators of EJKs, including those associated with the killings, abductions and disappearances of labor activists. Similarly, the Department of Justice Human Rights Prosecutors Task Force's mandate should be expanded to include the prosecution of cases involving labor activists.

Assumption of Jurisdiction:

-- We urge the Department of Labor and Employment (DOLE) to issue regulations to define what constitutes an essential service in a manner that is consistent with ILO standards.

Freedom of Association:

-- We urge the GRP to take meaningful steps to enforce its laws, ensuring that employers comply with Philippine law regarding rights of association and collective bargaining, particularly in the nation's EPZs. For example:

- 1) Encourage companies to comply with existing legal responsibilities under Philippine labor law regarding collective bargaining.
 - 2) Address possible informal no union/no strike policies in certain EPZs by having the Philippine Economic Zone Authority (PEZA) and Board of Investment establish written policies acknowledging the right to union organization and strikes in accordance with Philippine law and ILO conventions. We also hope PEZA would further support this policy by incorporating information on Philippines labor law in outreach and orientation materials.
 - 3) Take steps to address the fraudulent closure of factories or declarations of bankruptcy by factory owners specifically intended to stop union organizing.
 - 4) Examine the use of contract workers, particularly in the EPZs, to ensure that they are able to exercise fully their labor rights afforded by Philippine law and are not employed in a manner that infringes on the statutory labor rights of other Philippines workers.
- We also request the GRP verify that the military is not placing personnel in or around work places to intimidate workers, and if such practices are found, issue appropriate instructions to end prolonged military presence in or around workplaces (e.g. in Southern Tagalog and Central Luzon as noted by the ILO).
- We encourage the GRP to invite an ILO Technical Mission (as recommended by the ILO Committee on Freedom of Association) and participate fully in its work on these issues.

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